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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91176065
Party	Defendant H. Co. Computer Products
Correspondence Address	RAYMOND R. TABANDEH CHRISTIE, PARKER & HALE, LLP. 350 West Colorado Blvd., Suite 500 Post Office Box 7068 PASADENA, CA 91109-7068 UNITED STATES pto@cph.com
Submission	Opposition/Response to Motion
Filer's Name	Gary J. Nelson
Filer's e-mail	pto@cph.com
Signature	/Gary J. Nelson/
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

<p>LENOVO (SINGAPORE) PTE LTD</p> <p>Opposer,</p> <p>v.</p> <p>H. CO. COMPUTER PRODUCTS</p> <p>Applicant.</p>
<p>H. CO. COMPUTER PRODUCTS</p> <p>Counterclaimant,</p> <p>v.</p> <p>LENOVO (SINGAPORE) PTE LTD</p> <p>Counter-Opposer.</p>

Opposition No. 91176065

**APPLICANT-COUNTERCLAIMANT'S
OPPOSITION TO MOTION FOR A
MORE DEFINITE STATEMENT**

Mark: THINKCP
Serial No.: 78/636,480
Filed: May 24, 2005

I. Introduction

Counter-Opposer Lenovo (Singapore) Pte. Ltd.'s ("Lenovo") motion for a more definite statement should be denied.

The supposed defects cited by Lenovo are not defects, and do not prevent a reasonable person from comprehending the claims being made by Applicant-Counterclaimant H. Co. Computer Products' ("HCCP"). At a minimum, Lenovo has received fair notice as to what HCCP's specific claims are, as required by the Federal Rules of Civil Procedure.

Rather than taking a reasonable view of the language of the HCCP pleading, Lenovo inappropriately and illogically nitpicks the counterclaim. The rules, however, are clear: a more definite statement is only appropriate when the pleading is so vague and ambiguous that the adverse party cannot reasonably frame a response. Fed. R. Civ. P. 12(e). This is certainly not the situation in this case.

II. Legal Standards for Notice Pleading and Motions for a More Definite Statement

A properly pled counterclaim only requires two elements: 1) a short, plain statement of why the counterclaimant will be damaged by the registration at issue; and 2) a short, plain statement of the grounds for cancellation. TBMP § 309.03(a)(2); 37 C.F.R. § 2.112(a). In meeting these requirements, the counterclaimant's pleadings need only give fair notice of the claims asserted. *See Harsco Corp. v. Elec. Scis., Inc.*, 9 U.S.P.Q. 2d 1570, 1571 (TTAB 1998) (since the function of pleadings is to give fair notice of a claim, a party is allowed reasonable latitude in its statement of its claims); *Ohio State Univ. v. Ohio Univ.*, 51 U.S.P.Q. 2d 1289, 1292 (TTAB 1999) (since the purpose of pleadings is to give fair notice of the claims, the Board may in its discretion decline to strike even objectionable pleadings where their inclusion will not prejudice adverse party but rather will provide fuller notice of basis for claim). Thus, a motion

for a more definite statement should only be granted where the pleading is “*so vague or ambiguous*” that a party cannot *reasonably* be required to frame a responsive pleading . . .” Fed. R. Civ. P. 12(e) (emphasis added); TBMP § 505.01.

III. HCCP’s Counterclaim Sufficiently Puts Lenovo on Notice of the Claims and Pleads with Particularity the Classes Which Are to Be Cancelled

A reasonable review of HCCP’s counterclaim mandates a conclusion that HCCP has pled its claims with sufficient particularity to put Lenovo on fair notice as is required by the Federal Rules of Civil Procedure and the Trademark Rules of Practice. Lenovo attempts to alleged minor imperfections in HCCP’s pleadings. Perfection in the pleadings, however, is not required. Instead, the pleadings, when given their reasonable interpretation, must merely give Lenovo fair notice of the claims being asserted.

No reasonable person would misperceive the allegations made in HCCP’s counterclaim. Nevertheless, Lenovo claims that paragraph 13 of the counterclaim is “unintelligible because it does not specify which registration is sought to be cancelled” because the paragraph contains one erroneous use of the word “registration” instead of “registrations.” (Motion pg. 2.) In full, the paragraph states “The continuous registration of *Lenovo’s Marks* is causing injury to HCCP’s business plans, is impairing HCCP’s rights in its Marks, is inconsistent with HCCP’s rights, and will continue to cause injury to HCCP until the *registration* is cancelled.” (Counterclaim ¶13 (emphasis added).) HCCP specifically defines the phrase “Lenovo’s Marks” to mean the subject marks of each of the registrations identified in the counterclaim. (Counterclaim ¶7.) HCCP uses a predefined phrase encompassing multiple registrations in the beginning of the paragraph and continuously refers back to that phrase throughout the remainder of the paragraph.

Rather than accepting the reasonable interpretation that HCCP is referring to all of the defined Lenovo registrations, Lenovo instead has made the decision to bring an unnecessary motion for a more definite statement. The meaning of paragraph 13 is clear, particularly in light of the entire counterclaim and in light of the final paragraph of the counterclaim, which requests that the Board cancel the registrations at issue.

Lenovo continues to nitpick the remainder of the counterclaim in a similar fashion. As Lenovo explains in its motion, several of its registrations fall into multiple classes. (Motion pg. 2.) Lenovo has already highlighted this fact for both HCCP and the Board by listing the classes for each of its registrations in its Amended Notice of Opposition. (Amended Notice ¶1.) The counterclaim lists each registration being petitioned for cancellation along with the specific class being petitioned. (Counterclaim ¶¶1-7.) For example, while Registration No. 2,995,709 is directed to goods and services in Classes 9 and 16, the counterclaim only lists Class 9 and the goods contained therein, thus indicating that the counterclaim is only directed to the goods in that class for that registration.. (Counterclaim ¶2.) Alternatively, for the multi-class registrations where HCCP has sought to cancel the registration for more than one class, HCCP has listed each affected class and the goods contained therein. (*See, e.g.*, Counterclaim ¶5.) HCCP has therefore identified the registrations and classes at issue and in doing so has put Lenovo on fair notice of HCCP's claims.

While Lenovo may incorrectly argue that the pleading has not been worded perfectly, it cannot successfully argue that the counterclaims are so vague and ambiguous that Lenovo cannot reasonably perceive the claims at issue and form a response. HCCP's counterclaims are sufficiently clear to give Lenovo fair notice of HCCP's claims, and Lenovo's motion for a more definite statement should therefore be denied.

IV. Conclusion

For the foregoing reasons, HCCP respectfully requests that the Board deny Lenovo's motion for a more definite statement.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

Date

9/25/07

By

Gary J. Nelson

Gary J. Nelson

Attorneys for Applicant/Counterclaimant

P.O. Box 7068

Pasadena, California 91109-7068

626/795-9900

GJN/SEL/sel

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CERTIFICATE OF TRANSMISSION AND SERVICE

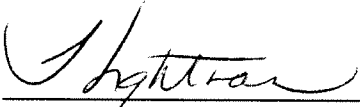
I certify that on September 25, 2007, the foregoing **APPLICANT-COUNTERCLAIMANT'S OPPOSITION TO MOTION FORE A MORE DEFINITE STATEMENT** is being electronically filed with:

Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

It is further certified that on September 25, 2007, the foregoing **APPLICANT-COUNTERCLAIMANT'S OPPOSITION TO MOTION FORE A MORE DEFINITE STATEMENT** is being served by mailing a copy thereof by first-class mail addressed to:

Stanley D. Ference III
Ference & Associates
409 Broad Street
Pittsburgh, PA 15143

Attorneys for Opposer

By: 

Tammy Lightman
Assistant to Gary J. Nelson, Esq.
CHRISTIE, PARKER & HALE, LLP
P.O. Box 7068
Pasadena, CA 91109-7068